

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE EX PARTE APPLICATION OF SPS I  
FUNDO DE INVESTIMENTO DE  
ACOES – INVESTIMENTO NO  
EXTERIOR

22-mc-00118 (LAK)

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### MEMORANDUM AND ORDER

LEWIS A. KAPLAN, *District Judge*.

This matter is before the Court on the motion (Dkt 78) by Joesley Batista, Wesley Batista, JBS S.A., and J&F Investimentos S.A. (collectively, “Intervenors”) to stay discovery pending their appeal from the Court’s March 4, 2024 Memorandum Opinion (Dkt 75), which granted the amended application of SPS I Fundo de Investimento de Ações – Investimento no Exterior (“Petitioner”) for discovery from The New York Branch of Barclays Bank PLC pursuant to 28 U.S.C. § 1782. For the reasons set forth below, Intervenors’ motion is denied.

Four factors inform whether a stay should be issued: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.”<sup>1</sup> A party seeking a stay “bears a difficult burden.”<sup>2</sup>

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*U.S. S.E.C. v. Citigroup Glob. Markets Inc.*, 673 F.3d 158, 162 (2d Cir. 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)).

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*United States v. Priv. Sanitation Indus. Ass’n of Nassau/Suffolk, Inc.*, 44 F.3d 1082, 1084 (2d Cir. 1995).

First, Intervenor's are unlikely to succeed on appeal substantially for the reasons set forth in this Court's opinion granting Petitioner's amended application and Petitioner's opposition to the motion to stay.<sup>3</sup> Second, Intervenor's anticipated injury — that their appeal effectively would become moot because “[o]nce discovery occurs, Petitioner will have access to [the] information” that it seeks in the amended application<sup>4</sup> — is not compelling. As the Court previously observed, “this is a concern common to every Section 1782 case and does not entitle Intervenor's to a stay as a matter of right.”<sup>5</sup> Moreover, the projected seriousness and likelihood of irreparable injury threatened here are low because Intervenor's are unlikely to succeed on appeal.<sup>6</sup> Third, Petitioner stands to suffer injury from a further delay in receiving discovery. Last, the public has a substantial interest in the disclosure of evidence of potential wrongdoing by Intervenor's.

Intervenor's motion for a stay of discovery pending appeal (Dkt 78) is denied. Intervenor's motion for what they characterize as an administrative stay of discovery pending resolution of their motion for a stay pending appeal (Dkt 83) is denied as moot.

SO ORDERED.

Dated: April 27, 2024

  
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Lewis A. Kaplan  
United States District Judge

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<sup>3</sup>

Dkt 75; Dkt 80 at 3-17.

<sup>4</sup>

Dkt 79 at 14.

<sup>5</sup>

Dkt 46 at 2.

<sup>6</sup>

*See Id.* at 3.